

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  MOTION TELECOM, INC., AND UNIVANCE TELECOMMUNICATIONS, INC.	DOCKET NO. WRU-03-51-3718
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**ORDER GRANTING WAIVER**

(Issued September 2, 2003)

On July 23, 2003, Motion Telecom, Inc. (Motion), and Univance Telecommunications, Inc. (Univance), jointly filed with the Utilities Board (Board) a request for a waiver of 199 IAC 22.23(2) regarding individual customer verification rules for unauthorized changes in telecommunications services. Both Motion and Univance are long distance telecommunications providers in Iowa. No objection to the request has been filed.

In support of the request, the parties state that Univance filed a Chapter 11 bankruptcy petition on January 23, 2003. The Bankruptcy Court approved the sale of all of Univance's assets to Motion on April 4, 2003, pursuant to a management services agreement entered into by both parties. Univance is now preparing a Chapter 7 liquidation petition, which will cause Univance to discontinue service to its Iowa customers. At the time of the asset sale, Univance had over 400 customers in Iowa.

The parties propose to transfer Univance's customers to Motion. Motion has already hired substantially all of customer service and other personnel of Univance so it expects to continue serving Univance's customers at the same rates, terms and conditions. The parties also state that an FCC-approved notice will be given to all of Univance's customers of Motion's purchase of Univance's assets and customer base. Under these circumstances, the parties assert that individual customer verification is unnecessary and should be waived.

To grant the waiver, the Board must find, based upon clear and convincing evidence that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that a waiver of 199 IAC 22.23(2) should be granted based on the Board's review of the information provided by Motion and Univance. The Board finds that it would be an undue hardship for Motion to obtain over 400 individual authorization verifications for the change in service providers. The Board also finds that the waiver will not affect the substantial legal rights of any person and that equal protection of the public health, safety, and welfare have been afforded since all of

Univance's customers will receive an FCC-approved notice of Motion's acquisition and will be afforded an opportunity to change providers if they choose to do so.

**IT IS THEREFORE ORDERED:**

The joint waiver request filed by Motion Telecom, Inc., and Univance Telecommunications, Inc., on July 23, 2003, is granted. The verification requirement of 199 IAC 22.23(2) for unauthorized changes in telecommunications service is waived for the acquisition of Univance's customers by Motion.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 2<sup>nd</sup> day of September, 2003.